

## **REMARKS/ARGUMENTS**

### **1. Summary of the Office Action**

The specification is objected to as not including an abstract, not including the application number for the co-pending application, and containing a typographical error.

Claim 2 is objected to as not ending with a period.

Claim 10 stands rejected under § 112 as allegedly being indefinite.

Claims 1-4 and 8-15 stand rejected under § 102(b) as allegedly being anticipated by U.S. patent no. 5,890,138 (hereinafter "Godin").

Claims 32-34 stand rejected under § 103(a) as allegedly being unpatentable over Godin in view of U.S. patent no. 6,243,691 (hereinafter "Fisher").

### **2. Response to Specification Objections**

The specification has been amended to include the abstract, to include the application number for the co-pending application, and to correct the typographical error.

### **3. Response to Claim Objections**

Claim 2 has been amended to end with a period.

### **4. Response to § 112 Rejection**

Applicants respectfully traverse this rejection for the reasons set out below, and ask the Examiner for reconsideration.

Claim 10, as amended, reads as follows:

“The method of claim 1 wherein the presenting a plurality of price choices displays **a present price and at least one future price**, and further including displaying a present purchase control button next to **the present price** and a future purchase control button next to **the at least one future price.**”

The phrase of “a present price” provides sufficient antecedent basis for the phrase of “the present price”. The phrase of “at least one future price” provides sufficient antecedent basis for the phrase of “the at least one future price”. Thus, the § 112 rejection of claim 10 has been overcome.

## **5. Response to § 102(b) Rejections**

Applicants respectfully traverse this rejection for the reasons set out below, and ask the Examiner for reconsideration.

To anticipate a claim, the reference must teach every element of the claim. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

### **GODIN DOES NOT TEACH EVERY ELEMENT OF CLAIMS 1, 11, AND 15**

Claim 1 reads as follows:

#### **1. A networked sales method, including:**

**presenting via a first network a sales screen to a user showing a plurality of price choices for an item,**

converting available supply and sales activity level information about actions by other users for the item for which the price choices are presented in the step of presenting into a feedback indication, and

conveying the feedback indication to the user on the sales screen.

Godin, on the other hand, discloses an auction system, which allows users to participate using their own computers suitably connected to the auction system. (Godin, Abstract.) In Godin, a user can view a screen displaying product information, including *a single value* for the “street price” (Godin, Fig. 9). A user can also view a different screen, which may include *a single value* for the price of the unit at the current time (Godin, Fig. 10). Thus, Godin discloses presenting a single price choice for an item. Godin fails to disclose or even suggest “**presenting via a first network a sales screen to a user showing a plurality of price choices for an item**”, as required in claim 1.

Furthermore, although Godin discloses maintaining “a starting price for the auction” and “a closing price for the auction” database fields, there is no indication in Godin that more than one price choice is ever presented to a user for an item on a sales screen, which is in stark contrast with “**presenting via a first network a sales screen to a user showing a plurality of price choices for an item**”, as required in claim 1.

Because not every element of claim 1 is present in Godin, claim 1 and its dependent claims 2-4, 8-10, and 32-33 are patentable and should be allowed.

Claim 11 requires “**a plurality of price choice selection controls for the item identified in the item identification area and having outputs provided to the sales server via the network**”, and claim 11 and its dependent claims 12-14 and 34 are allowable for at least the reasons articulated with respect to claim 1.

Claim 15 requires “means for **presenting via a first network a sales screen to a user showing a plurality of price choices for an item**”, and claim 15 is allowable for at least the reasons articulated with respect to claim 1.

## **6. Response to § 103(a) Rejections**

Applicants respectfully traverse this rejection for the reasons set out below, and ask the Examiner for reconsideration.

To establish a **prima facie** case of **obviousness**, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant’s disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

### **THE PRIOR ART REFERENCES DO NOT TEACH OR SUGGEST ALL CLAIM LIMITATIONS, WHEN CONSIDERED SINGULARLY OR IN COMBINATION.**

Neither Godin, nor Fisher, or a combination thereof discloses presenting to a user a plurality of price choices for an item. Claims 32 and 33 require “**presenting via a first network a plurality of price choices to a user for an item on a sales screen**” by virtue of being dependent on claim 1. Thus, claims 32 and 33 are allowable for at least the reasons articulated with respect to claim 1.

Claim 34 requires “**a plurality of price choice selection controls for the item identified in the item identification area and having outputs provided to the sales server via the network**” by

virtue of being dependent on claim 11. Thus, claim 34 and 33 is allowable for at least the reasons articulated with respect to claim 1.

In light of the above, Applicants respectfully submit that the rejection under 35 U.S.C. §103(a) has been overcome, and withdrawal of this rejection is therefore respectfully requested.


## **7. Conclusion**

Having tendered the above remarks and amended the claims and the specification as indicated herein, Applicants respectfully submit that all objections and rejections have been addressed and that the claims are now in a condition for allowance, which is earnestly solicited.

If there are any additional charges, please charge Deposit Account No. 02-2666. If a telephone interview would in any way expedite the prosecution of the present application, the Examiner is invited to contact Elena Dreszer at (408) 947-8200 ext. 209.

Respectfully submitted,  
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